

# Exhibit A

UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION

KRISJENN RANCH, LLC, ET AL,	)	CASE NO: 20-05027-rbk
	)	ADVERSARY
Plaintiffs,	)	
	)	San Antonio, Texas
vs.	)	
	)	Wednesday, February 5, 2025
DMA PROPERTIES, INC, ET AL,	)	
	)	9:59 a.m. to 10:53 a.m.
Defendants.	)	

LEAD CASE: 20-50805-rbk  
KrisJenn Ranch, LLC

HEARING RE:  
MOTION TO ENFORCE CONSTRUCTIVE TRUST [DKT.NO.368]

BEFORE THE HONORABLE RONALD B. KING,  
UNITED STATES BANKRUPTCY JUDGE

APPEARANCES: SEE PAGE 2

Court Reporter: Recorded

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San Antonio, Texas; Wednesday, February 5, 2025; 9:59 a.m.

(Call to order)

**THE COURT:** Good morning. This is Judge King in San Antonio. Our 10:00 o'clock case is *Krisjenn Ranch, LLC versus DMA Properties*.

Could I get announcements from those of you who intend to speak this morning?

**MR. GERMANY:** Yes, Your Honor. Good --

**MR. SPEAKER:** Your Honor, --

**MR. GERMANY:** -- morning. This is William Germany for Larry Wright.

**THE COURT:** All right.

**MR. MULLER:** Your Honor, --

**MR. KRIST:** And, Your Honor, Austin --

**MR. SPEAKER:** Try again.

**MR. MULLER:** Apologies, Your Honor. John Muller. I'm here for the Krisjenn entities. I don't intend to make argument today.

**THE COURT:** Okay.

**MR. KRIST:** And, Your Honor, Austin Krist on behalf of DMA Properties, Frank Daniel Moore, and Longbranch Energy. I'll be making argument for our side today.

We also have several other attorneys on our side here, including Chris Johns, (Inaudible) Ortiz, and (inaudible).

1           **THE COURT:** Okay. Anyone else?

2           (No audible response.)

3           Okay. Go ahead, Mr. Krist.

4           **MR. KRIST:** So, Your Honor, if I may, I -- we have a  
5 short handout that we prepared in the vane of a PowerPoint,  
6 except for it's in a Word document that I'll share if the Court  
7 will allow me to.

8           **THE COURT:** Okay.

9           **MR. GERMANY:** And, Your Honor, this is William  
10 Germany. I apologize but Mr. Muller and I are actually here at  
11 the courthouse and so we cannot see that. But I'm sure it  
12 won't -- we're not going to object to it.

13           **THE COURT:** Okay. We'll describe it if you want us  
14 to as it goes.

15           **MR. GERMANY:** I'll just listen to Mr. Krist's  
16 argument. Thank you, Your Honor.

17           **THE COURT:** Okay.

18           **MR. GERMANY:** And we are way overdressed for this  
19 phone conference.

20           **THE COURT:** Okay.

21           **MR. KRIST:** And, Mr. Germany, I can assure you the  
22 things that are in the handout are really just a summary of  
23 what I'll be presenting here today, so there shouldn't be  
24 anything that you're not already hearing.

25           So, Your Honor, to start, in the final judgment in

1 this case, the Court awarded the following relief to my  
2 clients, DMA Properties, Frank Daniel Moore, and Longbranch  
3 Energy.

4 First, the Court entered a declaratory judgment that  
5 DMA and Longbranch have 20 percent net profits interest that  
6 are valid covenants running with the right-of-way. That's not  
7 in dispute. It's not really an issue that we're here to raise  
8 today.

9 Second, the Court found that Larry Wright breached  
10 fiduciary duties owed to Mr. Moore in connection with  
11 Mr. Wright's schemes to gain control of the right-of-way in the  
12 first place.

13 On that basis the Court awarded DMA and Moore a  
14 constructive trust over the right-of-way as an equitable remedy  
15 for breach of fiduciary duty. That's relevant here -- well,  
16 actually let me back up.

17 So, Your Honor, that's relevant for multiple reasons,  
18 including that Mr. Wright previously transferred the right-of-  
19 way to another entity that he controlled, Express H2O, while  
20 this proceeding was pending.

21 And as you might recall, in its final judgment the  
22 Court ordered that it was imposing a constructive trust on the  
23 right-of-way in the hands of Express H2O if Mr. Wright did not  
24 transfer the right-of-way back to Krisjenn.

25 And then, third, Your Honor, the Court awarded DMA,

1 Moore, and Longbranch their attorneys' fees. I understand that  
2 Mr. Germany had an objection to us raising that issue today  
3 because we added it in an amended motion.

4 And so we're not going to be pressing that here today  
5 if Mr. Germany is continuing to object.

6 But the motion for constructive trust is fully  
7 briefed, and that's the primary issue that we have here. And  
8 so, Your Honor, --

9 **MR. GERMANY:** Sorry. I am continuing with my  
10 objection. They filed an amended motion on Monday evening,  
11 Your Honor.

12 **MR. KRIST:** And so, --

13 **THE COURT:** Okay.

14 **MR. KRIST:** -- Your Honor, because Mr. Germany's  
15 objecting to the request for substitute service and I guess is  
16 not prepared to address it, we've agreed that we won't proceed  
17 on that issue and we'll just be moving forward on the  
18 constructive trust issues that are fully briefed in the  
19 response.

20 **THE COURT:** The substituted service, was that the  
21 only thing you added to the amended motion?

22 **MR. KRIST:** That's correct, Your Honor.

23 **THE COURT:** Okay. Go ahead.

24 **MR. KRIST:** And so, Your Honor, we're centered on the  
25 constructive trust here today.

1           And at bottom, the basic reason that we are here  
2 before the Court is because Mr. Wright has made no attempt to  
3 comply with this Court's final judgment in any way, including  
4 with respect to the constructive trust.

5           So moving on to the meat of our argument here, under  
6 the final judgment, as I mentioned, the Court ordered that DMA  
7 and Moore shall recover a constructive trust on the right-of-  
8 way as a remedy for Wright's breaches of fiduciary duty.  
9 That's on page two of the judgment, Your Honor.

10           And the Court then further explained in its opinion  
11 accompanying the final judgment that unless Mr. Wright  
12 transferred the right-of-way back from Express H2O to Krisjenn,  
13 the Court would impose a constructive trust on the right-of-way  
14 which would allow Larry Wright to recover his investment for  
15 the \$4.7 million purchase price prior to the breaches of  
16 fiduciary duty.

17           And the Court didn't award anything else to  
18 Mr. Wright.

19           Now, Your Honor might remember that at the last  
20 hearing before entry of the final judgment Defendants' counsel  
21 Mr. Muller represented to this Court that Defendants would in  
22 fact transfer the right-of-way back to Krisjenn.

23           Well, that never happened, and we know that for two  
24 reasons. First, Defendants served post-judgment discovery  
25 requests which revealed that the right-of-way was not



1 transferred back to any of the Krisjenn entities.

2           Second, we learned a couple weeks ago that not only  
3 did Mr. Wright refuse to transfer the right-of-way back to  
4 Krisjenn, in violation of this Court's order and in violation  
5 of the Chapter 11 plan, but on top of that Express H2O, which  
6 continues to hold the right-of-way, is now out there filing  
7 lawsuits against third parties and claiming that Express H2O is  
8 the rightful owner of the right-of-way.

9           And that's problematic for a whole host of reasons.  
10 Number one, because Express H2O is not the lawful owner of the  
11 right-of-way in light of this Court's order imposing a  
12 constructive trust.

13           And, number two, because Express H2O is not -- excuse  
14 me. Number two, because Express H2O is out there engaging in  
15 litigation and taking positions as to the scope and rights  
16 under the right-of-way, that could seriously prejudice my  
17 clients.

18           I'm going to scroll ahead in our handout here, Your  
19 Honor, because I realize I skipped a page.

20           Now, Your Honor, with that context in mind, the  
21 reason we are here before the Court today is because we are  
22 asking this Court to enforce the constructive trust that it  
23 imposed under the final judgment for Mr. Wright's fiduciary  
24 breaches by ordering Mr. Wright to transfer the right-of-way to  
25 DMA and Mr. Moore.

1           Now, in his response, Mr. Wright argues that this  
2 Court can't require him to transfer title to DMA and Mr. Moore  
3 because, according to Mr. Wright, we weren't granted that  
4 relief in the final judgment.

5           And to be blunt, Your Honor, that's wrong. And it  
6 misunderstands what a constructive trust is under Texas law.

7           Under Texas law, a constructive trust is an equitable  
8 remedy that subjects the person holding title to property to an  
9 equitable duty to convey it to another.

10           That language is from *In Re Gouge* (phonetic), which  
11 is a Southern District of Texas bankruptcy case from 2008 that  
12 we cited in our briefing.

13           And the Texas Supreme Court has likewise reiterated  
14 the same principle and affirmed that when a court imposes a  
15 constructive trust on real property, the effect of the  
16 constructive trust is to create an equitable duty on the party  
17 holding the property to convey it.

18           That's from *Tally v. Howsley*, which is another Texas  
19 Supreme Court case that we've cited in our briefing.

20           And, Your Honor, the reason that a constructive trust  
21 requires transfer of title is because under Texas law,  
22 fiduciaries who have breached their duties, like Mr. Wright,  
23 are not allowed to keep the fruits of their malfeasance.

24           That's from *ERI Consulting*, a Texas Supreme Court  
25 case from 2010 which again we've cited in our briefing.

1           And concomitantly, when a fiduciary acquires legal  
2 title to property in violation of a fiduciary relationship, the  
3 imposition of a constructive trust subjects the breaching  
4 fiduciary to an equitable duty to convey the property.

5           And that's exactly the situation that we are in here.  
6 In this case, the Court expressly found that Mr. Wright  
7 obtained control of the right-of-way through breaches of  
8 fiduciary duties that he owed to Mr. Moore.

9           And in its final judgment, the Court explicitly  
10 imposed a constructive trust on the right-of-way as a remedy  
11 for those breaches of fiduciary duty.

12           Under that constructive trust, Mr. Wright gets to  
13 recover a first monies obligation of 4.7 million from any sale  
14 or monetization of the right-of-way. And we're not disputing  
15 that.

16           But what he can't recover are profits or amounts in  
17 excess of that contribution because, as I mentioned, Texas law  
18 does not allow fiduciaries to profit from breaches of their  
19 fiduciary duties.

20           And here, Mr. Wright obtained control of the right-  
21 of-way in the first place by breaching fiduciary duties that he  
22 owed to Mr. Moore.

23           And, Your Honor, that's what this Court's final  
24 judgment ordered. It ordered that it was imposing a  
25 constructive trust that would allow Larry Wright to recover his

1 investment for the \$4.7 million purchase price and nothing  
2 more.

3 And, finally, Your Honor --

4 **THE COURT:** Doesn't he get 60 percent after the 40  
5 percent held by Moore and Borders?

6 **MR. KRIST:** Well, Your Honor, I believe that the  
7 answer to that question is no because under Texas law,  
8 Mr. Wright cannot profit from his breaches of fiduciary duty.

9 And we don't dispute that Mr. Wright would get back  
10 the money that he paid in, the 4.9 million or, excuse me, 4.7  
11 million. And so he would be made whole under the constructive  
12 trust. And it was within Your Honor's discretion to craft  
13 equitable relief in that way.

14 But under Texas law and under the Texas Supreme  
15 Court's case *ERI Consulting*, what Mr. Wright cannot do is he  
16 cannot then recover additional 60 percent profits on top of  
17 getting paid back because he only obtained that interest in the  
18 right-of-way through his breaches of fiduciary duty in the  
19 first place.

20 **THE COURT:** What does the judgment provide?

21 **MR. KRIST:** Your Honor, the judgment provides -- it  
22 says: as to DMA and Moore's claim for breach of fiduciary duty  
23 against Wright regarding the unauthorized Black Duck loan, the  
24 Court renders judgment that DMA and Moore recover a  
25 constructive trust on the right-of-way in the hands of Express

1 H2O.

2 And, Your Honor, we believe that that constructive  
3 trust was the correct remedy here because Mr. Wright obtained  
4 the right-of-way through his breaches of fiduciary duty. And  
5 it is the remedy that this Court ordered for breach of  
6 fiduciary duty.

7 And under Texas law, the effect of that constructive  
8 trust, which has already been awarded in the Court's final  
9 judgment, is to subject Mr. Wright to an equitable duty to  
10 convey the property to DMA and Mr. Moore, subject to the first  
11 monies obligation that Your Honor ordered, because that's what  
12 a constructive trust is under Texas law.

13 And we think that issue is clear, Your Honor. The  
14 reason that we're here today is because Mr. Wright has made no  
15 effort to comply with the Court's judgment. He has not  
16 effectuated a transfer pursuant to the constructive trust.

17 And he didn't even transfer the right-of-way back to  
18 Krisjenn as this Court originally requested in light of his  
19 breaches of the Chapter 11 plan.

20 And, Your Honor, finally just to wrap up, in terms of  
21 equities here, fundamentally Mr. Wright has not been -- excuse  
22 me, has not proven that he can be trusted with the right-of-way  
23 or that he is the appropriate steward to monetize that.

24 As I mentioned, he originally got control through his  
25 breaches of fiduciary duty. And he subsequently attempted to

1 transfer the right-of-way to this other entity, Express H2O, in  
2 violation of the Chapter 11 plan in an attempt to evade this  
3 Court's judgment.

4 He didn't honor his lawyer's representations that it  
5 would be transferred back to Krisjenn. And now he's litigating  
6 with third parties claiming that Express H2O is the owner of  
7 the right-of-way, in spite of the constructive trust, which  
8 risks seriously prejudicing my clients' rights.

9 And, in sum, we're respectfully asking the Court to  
10 enforce the constructive trust it awarded by ordering  
11 Mr. Wright to transfer the right-of-way to DMA and Mr. Moore,  
12 subject to that \$4.7 million first monies obligation because  
13 that is what Texas law requires under the judgment entered by  
14 this Court.

15 Your Honor, at this point, if you have further  
16 questions I'm happy to answer them. Otherwise I'm happy to  
17 cede the --

18 **THE COURT:** Yeah.

19 **MR. KRIST:** -- floor to Mr. Germany.

20 **THE COURT:** I have three questions. What's the  
21 status of the appeal? I saw that an appeal was filed and some  
22 appeals were consolidated by Judge Xavier Rodriguez.

23 **MR. KRIST:** Yes, Your Honor. So the appeal is still  
24 pending. We have filed our affirmative briefing. The  
25 Defendants have filed their responsive briefing. They, to the

1 best of my knowledge, have not filed any affirmative brief  
2 laying out their own arguments (inaudible) --

3 **THE COURT:** Well, is the appeal filed by your side,  
4 by DMA and Moore and so forth?

5 **MR. KRIST:** Your Honor, both sides filed a notice of  
6 appeal but only my side filed a substantive brief urging  
7 arguments for reversal --

8 **THE COURT:** Okay.

9 **MR. KRIST:** -- or action by the appellate court.

10 **THE COURT:** Okay. And you don't know anything about  
11 when that might come out, the -- Judge Rodriguez hasn't  
12 scheduled an oral argument or anything like that.

13 **MR. KRIST:** I don't believe so, Your Honor. I  
14 believe that the reply brief is due in the next week or two  
15 here.

16 **THE COURT:** Okay. And they --

17 **MR. KRIST:** Although --

18 **THE COURT:** -- he may just do it on the papers  
19 obviously. He may not schedule argument.

20 **MR. KRIST:** That's correct, Your Honor.

21 And one other issue I'll note in connection with the  
22 appeal is that the fact that the appeal's pending does not  
23 affect this Court's ancillary and continuing jurisdiction to  
24 enforce its judgment.

25 There's plenty of Fifth Circuit law that says that

1 the district court retains jurisdiction to enforce its  
2 judgment.

3 And what we're asking for here is for the Court to  
4 enforce the constructive trust that it has already awarded.  
5 And that should not interfere with the appellate court's  
6 jurisdiction or this Court's jurisdiction in any way.

7 **THE COURT:** Okay. This is kind of outside the record  
8 and so I'm not going to base any decision on this. But does  
9 the right-of-way still have value?

10 **MR. KRIST:** Your Honor, absolutely we believe that  
11 the right-of-way has value.

12 And in the Express H2O Pipeline petition that I  
13 mentioned we recently became aware of where Mr. Wright is  
14 filing lawsuits claiming to own the right-of-way through  
15 Express H2O, he even mentions that in 2023 he was engaged in  
16 discussions attempting to sell it with John Terrill, who you  
17 might remember from the trial.

18 So, yes, within the last two years Mr. Wright has  
19 been out there trying to monetize the right-of-way.

20 And on top of that he's filing lawsuits claiming to  
21 own the right-of-way, seeking money from third parties for  
22 allegedly violating Express H2O's rights with respect to the  
23 right-of-way which, as I mentioned, is problematic and we  
24 believe improper.

25 **THE COURT:** Do you know if in -- as a part of those



1 negotiations he's disclosing the interest of DMA, Borders, and  
2 Moore?

3 **MR. KRIST:** Your Honor, my impression is that he is  
4 not. It is not mentioned in the petition.

5 The Defendants in that case learned of this case  
6 filing I believe through the public record and reached out to  
7 us about it. And the best of my knowledge, at that point they  
8 were not aware of any interest.

9 I'm not -- candidly, I'm not sure that that would be  
10 an issue affecting them because in that litigation that the net  
11 profits interest wouldn't strictly speaking be germane to the  
12 claims that were brought.

13 So I have no reason to believe that Mr. Wright is  
14 disclosing my clients' net profits interests in any of his  
15 conversations with third parties about this right-of-way.

16 **THE COURT:** So you're concerned that it's a repeat of  
17 what happened in the prior sale that was rescinded, that he's  
18 not disclosing the 20 and 20 percent net profits interests?

19 **MR. KRIST:** Well, Your Honor, I'd say that we have  
20 really three concerns.

21 Number one, yes, we're concerned that Mr. Wright is  
22 not disclosing my clients' net profits interests.

23 Number two, we believe that Mr. Wright shouldn't be  
24 in a position to go out there and use Express H2O to try and  
25 monetize this right-of-way and then get amounts over the first

1 monies obligation imposed by this Court because of the  
2 constructive trust.

3 And we believe that the constructive trust requires  
4 transfer of title to our clients under Texas law because,  
5 again, that's what a constructive trust is.

6 The third issue that I would say that we have is that  
7 because my clients have these net profits interests and because  
8 of Mr. Wright's continued and documented malfeasance and in my  
9 view wrongful actions, he's just not an appropriate steward for  
10 this right-of-way.

11 He's not going to be able to monetize it. He  
12 shouldn't be allowed to monetize it for his own profit in light  
13 of his fiduciary breaches.

14 And we believe that the judgment imposed by this  
15 Court requires transfer of title to the right-of-way to our  
16 clients, subject to that first monies obligation.

17 **THE COURT:** And who's your client? Is it DMA and  
18 Mr. Borders individually or Mr. Moore or who is it?

19 **MR. KRIST:** Your Honor, I represent Frank Daniel  
20 Moore individually, DMA Properties, and then Longbranch Energy.  
21 I don't represent Mr. Borders in his individual capacity.

22 But the request for the constructive trust  
23 specifically concerns really Mr. Moore and DMA Properties, to  
24 the extent that he's the full owner of that entity, because the  
25 breaches of fiduciary duty were breaches of fiduciary duty that

1 Mr. Wright owed to Mr. Moore, not to Mr. Borders.

2 **THE COURT:** Well, which person or entity owns the 20  
3 percent; either Mr. Moore or DMA?

4 **MR. KRIST:** Your Honor, my understanding, and  
5 Mr. Johns can correct me if I'm wrong because I'm a little  
6 rusty on this issue, but my understanding is that the net  
7 profits interest was transferred and owned by DMA Properties.

8 It originally belonged to Mr. Moore but was  
9 subsequently transferred.

10 **THE COURT:** And then Borders is not represented  
11 today, but his 20 percent was owned by Longbranch.

12 **MR. KRIST:** That's correct, Your Honor.

13 **THE COURT:** Is he active in the appeal or is he just  
14 sort of in the background?

15 **MR. KRIST:** He is active in the appeal to the extent  
16 that Longbranch Energy is one of the appealing parties and he  
17 is represented by our side and by Mr. Johns.

18 **THE COURT:** Now, does Mr. Johns also represent Moore  
19 and DMA or just Longbranch?

20 **MR. KRIST:** All three, Your Honor.

21 **THE COURT:** All three. And you represent all three,  
22 Mr. Krist?

23 **MR. KRIST:** That's correct, Your Honor.

24 **THE COURT:** Oh, okay. And then the Express lawsuits,  
25 I mean, you're saying that Mr. Wright is negotiating with

1 people and that is about a purchase of the right-of-way. And  
2 you're saying that that's resulted in some lawsuits; what, for  
3 specific performance or damages or what?

4 **MR. KRIST:** My understanding, Your Honor, is that  
5 Mr. Wright's filed a petition against somebody else claiming  
6 that their actions or asserted property interest infringe on  
7 the right-of-way. And so he's now engaged in litigation as to  
8 the scope and validity of the right-of-way.

9 And obviously, to the extent that those issues are  
10 determined adverse to Mr. Wright with respect to the right-of-  
11 way, that would prejudice my clients.

12 **THE COURT:** Is it one --

13 **MR. KRIST:** The --

14 **THE COURT:** -- lawsuit or more than one lawsuit?

15 **MR. KRIST:** I am only aware of one lawsuit at --

16 **THE COURT:** Okay.

17 **MR. KRIST:** -- this time.

18 **THE COURT:** Where is that pending, what county?

19 **MR. KRIST:** Your Honor, --

20 **THE COURT:** Do you know?

21 **MR. KRIST:** -- Mr. Germany or Mr. Muller might be  
22 able to better speak to that. I believe it's pending in the  
23 eastern -- excuse me, it's pending in eastern Texas where the  
24 right-of-way is located.

25 **THE COURT:** Okay.

1           **MR. KRIST:** Off the top of my head I don't remember  
2 the specific county. But I'm sure that I could pull up the  
3 petition (inaudible) --

4           **THE COURT:** Like Nacogdoches or Angelina or something  
5 like that?

6           **MR. KRIST:** Yes, that's correct, Your Honor.

7           **THE COURT:** Okay. So what you're asking for today is  
8 to compel Krisjenn and/or Mr. Wright to transfer the right-of-  
9 way from Express H2O to DMA and Longbranch; is that right?

10           **MR. KRIST:** Really it would be DMA and Mr. Moore,  
11 Your Honor. They're -- Mr. Moore is a hundred percent owner of  
12 DMA.

13                   We would be seeking to have this Court order  
14 Mr. Wright to transfer title pursuant to the constructive trust  
15 because this Court's final judgment imposed a constructive  
16 trust on the right-of-way as a remedy for breach of fiduciary  
17 duty in the hands of Express H2O.

18           **THE COURT:** Okay. And wasn't it DMA and Longbranch?

19           **MR. KRIST:** Your Honor, the breaches of fiduciary  
20 duty were specifically respect to -- Longbranch has a 20  
21 percent interest pursuant to --

22           **THE COURT:** Right.

23           **MR. KRIST:** -- a different contract that it entered.  
24 But that does not implicate the constructive trust or breaches  
25 of fiduciary duty.

1           Your Honor, at this point, unless Your Honor has  
2 further questions, I'm happy to cede the floor to Mr. Germany  
3 and respond to the -- whatever arguments he has.

4           **THE COURT:** Okay. Mr. Germany.

5           **MR. GERMANY:** Yes, Your Honor. Actually Mr. Muller  
6 is well-versed on some of these issues that need to be  
7 addressed and he will address the Court on some of the factual  
8 background and the pending lawsuit.

9           **THE COURT:** Okay.

10          **MR. MULLER:** Yes, Your Honor. Yes, I don't want to  
11 interfere with Mr. Germany's argument which he's well-prepared  
12 for.

13           I just would like to correct the record on four  
14 discreet issues which came up during the trial and I think the  
15 Court is well aware of.

16           But a representation made was made that there was no  
17 evidence that Mr. Wright has attempted to comply with the  
18 Court's constructive trust issue. And I don't believe that to  
19 be true.

20           If you will recall, there is -- there's a bankruptcy  
21 plan in place which is, you know, a contract between the  
22 parties allowing the row to be sold free and clear.

23           One of the issues there was, of course, that the  
24 Krisjenn name had been shown in a poor light during the trial,  
25 and there were very few prospective buyers.

1           So Mr. Wright had transferred the row into a new  
2 entity in the hopes of cleaning up and marketing the property,  
3 which is exactly he was supposed to do.

4           When it was reported to the Court in the sanctions  
5 motion that that was inappropriate, I told the Court that we  
6 would be glad to move it back.

7           I don't -- I didn't handle those transfers and I'm  
8 not handling those transfers. But we did tell the attorneys  
9 who had made that transfer, just put it right back in Krisjenn.

10           Too much time had passed and the Krisjenn name was no  
11 longer available. And so pretrial we once again reported that  
12 we could not put it into the Krisjenn name.

13           However, H2O stood ready to stand in the shoes of  
14 Krisjenn and would comply with not only the Court's orders but  
15 the bankruptcy plan to its full extent.

16           And that issue was heard and litigated at trial on  
17 remand; keeping in mind that that's not a proper remand issue.  
18 Those were not facts and issues that happened at trial. They  
19 were not part of the record and they were not remanded.

20           It was almost like a sanctions motion that was a kind  
21 of an issue addressed on the side.

22           I think the Court appropriate and wisely ruled that  
23 the -- although we could not return the title to Krisjenn, that  
24 an -- the constructive trust would be imposed on H2O in the  
25 hands of Larry Wright as manager to make sure that when the row

1 was sold and monetized, that the proceeds of sale would be  
2 distributed as the Court ordered in its constructive trust, the  
3 first I believe 4.7 to Mr. Wright, the remaining at a 60, 20,  
4 20 rate.

5 Mr. Wright is aware of that order; again, by and  
6 through me confirms his intent to comply with that order.  
7 There has been no sale. And if there is a sale, I can assure  
8 the Court that that will be exactly how we proceed.

9 I will say that to the extent we've now come back on  
10 an order to readdress that issue, I would say that we are *res*  
11 *judicata* in trying the case.

12 I also want to address the issue of fruits of his  
13 malfeasance and that the Court had somehow ruled that Larry's  
14 breach of fiduciary duty was in -- accomplished by wrongfully  
15 transferring the row.

16 And that's not true. And I think everyone knows that  
17 that's not true. And that is not in the record.

18 Privity was a very expensive issue argued in this  
19 case. It is undeniably true and, in fact, part of closing  
20 argument that privity of the row went from (inaudible)  
21 originally named Express into Krisjenn, and then to TCRG, which  
22 was an entity owned by Bobby Wright, and then into Krisjenn.

23 There was no proof and no allegation that Krisjenn  
24 had wrongfully foreclosed upon the row and taken it by that  
25 way, the fruits of their malfeasance as it were said.



1           That issue had to do with the Bigfoot note. It was  
2 addressed on summary judgment. That was what was foreclosed  
3 upon. It was the note and the note only.

4           And the Court ordered that, you know, that those  
5 funds be released from I believe the Shelby County court, and  
6 attorneys' fees be paid. And all of that happened.

7           But as to the breach of fiduciary duty, the only  
8 findings and holding there was that Mr. Wright had breached his  
9 fiduciary duty in not properly presenting in a proposing alone  
10 agreement, which was collateralized by the row.

11           But that collateral was never foreclosed, there was  
12 no transfer. And so to be clear, not only did Mr. Moore and  
13 Mr. Wright never own -- I'm sorry, Mr. Moore and Mr. Borders  
14 never own the row, but their deals insisted that they not.  
15 They wanted only silent net profits interest.

16           They wanted only upside. They did not want the  
17 expense and trouble of holding and owning these rows. And so,  
18 again, there was no -- absolutely no finding that the row was  
19 transferred wrongfully as a breach of fiduciary duty.

20           My third point I would like to make is there's  
21 this -- you know, in prior proceedings it has been alleged that  
22 Mr. Wright is a bad owner of the row. He is the owner of the  
23 row.

24           There was no claim -- there was 33 counterclaims;  
25 none for trespass to try title, none for quiet title. They --

1 these gentlemen never wanted to own the row. They wanted --  
2 they want the fruits of owning it but they don't want the  
3 expense and trouble of it.

4 And so the -- I'm sorry, can I look at my notes here?

5 I'm -- the issue about -- that came up previously was  
6 that Mr. Wright was a poor owner of the row because he didn't  
7 do things to take care of it, to be a good steward. Like, for  
8 instance, filing lawsuits for infringement and encroachment up  
9 on the row and trying to recover for damage to the row.

10 Now Mr. Wright has gone out and done that. Again,  
11 I'm not -- that's being handled by Houston lawyers. There's a  
12 bunch of them, there's like 30 of them. It's pending in  
13 Atascosa. It's a big lawsuit.

14 **THE COURT:** A bunch of --

15 **MR. MULLER:** It's not (inaudible) --

16 **THE COURT:** -- lawyers or a bunch of parties?

17 **MR. MULLER:** I'm sorry, there's two, three parties.

18 I believe it is -- again, I'm not on pleadings there, Your  
19 Honor, but I have spoken to these lawyers. There's many of  
20 them. It is Express H2O as a party plaintiff against an entity  
21 named Westlake.

22 Westlake is a pipeline company that moves Olefins  
23 through east Texas. Their pipeline crosses over the row,  
24 encroaches up on the row, and it is damaging to the row.

25 And so as a good owner and steward of the property,

1 when Mr. Wright figured that out, he filed this lawsuit. And,  
2 you know, it's very expensive and very time consuming.

3 In the past, we have been accused of being poor  
4 stewards of the row for not filing these lawsuits. Now we --  
5 the lawsuit's been filed and we're a poor steward of the row  
6 for filing these lawsuits.

7 And I want to say -- point something out. And this  
8 is really important and dangerous. You saw this in the TCRG  
9 case where Larry did go out and he made a productive deal that  
10 would have made everyone a lot of money. I think \$10,000 a day  
11 would have gone to Borders and Moore.

12 And they came in and said, no, he's a fraudster, he's  
13 a bad guy, coming back with this fraud thing. And the deal's  
14 unwound and it's lost.

15 Contemporaneously with the filing of this very motion  
16 before this Court, magically and miraculously the attorneys for  
17 Westlake have filed a similar motion on their side.

18 Their motion says that the case must be dismissed for  
19 want of jurisdiction because H2O doesn't really own the low --  
20 row; because the row was transferred with this constructive  
21 trust imposed upon its proceeds, that therefore means that  
22 there is no title and standing for the plaintiff to assert the  
23 claim.

24 That would result not only in the lawsuit being  
25 dismissed but forever lost because limitations would have

1 already passed.

2           So if -- what the movants are trying to prove today  
3 would once again cost millions of dollars of damages to the row  
4 and, therefore, and they're shooting themselves in the foot on  
5 their own interest to collect on the row.

6           But in closing -- and, again, I don't want to get  
7 into argument, but those are the factual statements I know for  
8 the Court. I don't believe the constructive trust has --  
9 implicates title.

10           I think when Mr. Wright says to the court in Atascosa  
11 I, H2O, owns the row, he's telling the truth. And I think he  
12 would be sanctioned and troubled if he said otherwise.

13           I don't know if they have disclosed the constructive  
14 trust or not. It's not a secret. I mean, I think if they were  
15 required to, they absolutely would. But I don't know if they  
16 have. I don't know if anyone's asked.

17           And factually that's all I have. I'm sorry if I went  
18 too long. I'll pass to Germany.

19           **MR. GERMANY:** Your Honor, --

20           **THE COURT:** Go ahead.

21           **MR. GERMANY:** Sorry. Yeah, he covered a lot of my  
22 points, Your Honor. I was just going to get to the meat of the  
23 issue here on the constructive trust.

24           Legally the constructive trust is just a creature of  
25 this judgment, and that is all it is, as I briefed the Court

1 on, Your Honor.

2           They are trying to alter the final judgment. As  
3 Mr. Muller mentioned, this is *res judicata* at this point.  
4 They're trying to alter and have terms put into the trust that  
5 just do not exist.

6           And the factual basis and background that Mr. Muller  
7 refreshed the Court's memory of go to exactly what we are  
8 trying to prevent from happening, and Mr. Wright is trying to  
9 prevent from happening, and that is hurting the row and its  
10 future value.

11           And at this point, even that aside, Your Honor, the  
12 issues -- they've not done anything, and that is DMA has not  
13 shown anything to this Court to show that he has violated any  
14 of the terms of the constructive trust and paragraphs two and  
15 three of the final judgment.

16           It simply says he has to hold it in trust, which he  
17 is doing. He is also pursuing those claims in east Texas to  
18 hopefully increase the value of the row and protect it and  
19 preserve it.

20           All he has to do at a given point in time is if it is  
21 sold or monetized, he gets the first \$4.7 million. It's  
22 simple. That's the first part of the trust.

23           And then after that there's a split of the net  
24 profits interest. It is clearly and explicitly spelled out in  
25 the judgment.

1           None of those events have happened. The post-  
2 judgment discovery has not even touched upon that or even asked  
3 about that to my knowledge.

4           Maybe they have asked Krisjenn, but Krisjenn is a  
5 defunct company. It is not there. There is nothing there to  
6 receive profits. That would be through Larry Wright, Your  
7 Honor, and Express H2O.

8           He just cannot offload this whole row and then get  
9 away with it. It's sitting there out in east Texas. And he --  
10 all he has to do on that is account for any net profits or any  
11 income to it. And he gets the first 4.7 million, and then  
12 after that they split 60, 20, 20.

13           **THE COURT:** Well, I don't think --

14           **MR. SPEAKER:** And that --

15           **THE COURT:** -- the judgment mentions the 60. I mean,  
16 I agree with the 20, 20, but where does it say the 60?

17           **MR. GERMANY:** It does not, Your Honor. But it's  
18 implied. And it says, after that, DMA and Longbranch will each  
19 receive 20 out of the net profits from the sale of future  
20 development of the row.

21           And so there would have to be somebody else there  
22 that would receive the 60 percent. And I would say that would  
23 be the then current owner, whether it's H2O or if it's been  
24 sold, wherever that 60 percent interest went.

25           **MR. MULLER:** If I may add, Your Honor, --

1           **THE COURT:** Why is it --

2           **MR. MULLER:** -- just one more --

3           **THE COURT:** -- pending in Atascosa County, just out  
4 of curiosity, the lawsuit?

5           **MR. GERMANY:** I think the encroachment of the row, if  
6 you'll remember, Your Honor, crosses four counties. And I  
7 think that Westlake's portion -- Westlake's Pipeline crosses  
8 the portion of the row that is in Atascosa. And so I think  
9 that the (inaudible) --

10          **THE COURT:** Well, I mean, the row is in east Texas.  
11 Atascosa's probably --

12          **MR. MULLER:** (Inaudible) --

13          **THE COURT:** -- hundred and fifty miles away.

14          **MR. GERMANY:** I'm misspeaking then. I am  
15 misspeaking. It is the southernmost county that begins with an  
16 "A." I cannot remember what it is but --

17          **THE COURT:** Oh.

18          **MR. GERMANY:** -- they filed it (inaudible) --

19          **THE COURT:** Angelina maybe.

20          **MR. GERMANY:** Angelina, yeah. I think it's mandatory  
21 jurisdiction in that county because that's where the --

22          **THE COURT:** Okay.

23          **MR. GERMANY:** -- (inaudible) is. I would --

24          **THE COURT:** Okay.

25          **MR. GERMANY:** -- like to add one jurisdictional point

1 I think hasn't been brought up yet, is we did not -- yes, we  
2 got reversed by the district court. It was heard on remand and  
3 entered. We didn't -- we filed a notice of appeal. We did not  
4 pursue that appeal.

5 The appeal -- the only appeal that's pending is on  
6 breach of fiduciary duty. And the argument being made there --  
7 and correct me if I'm wrong, Mr. Krist -- but is that your  
8 constructive trust is inappropriate because you didn't award,  
9 among other things, title, that you should have given a more  
10 relief, equitable relief than what you did.

11 You should have also given them title, even though it  
12 wasn't pled for or any evidence was presented.

13 And now that same issue's being raised at the trial  
14 court again. I would think jurisdictionally that issue is now  
15 before the district court or the Fifth Circuit, wherever that's  
16 at. Sam Houston and Greta McFarland are handling that part of  
17 the case.

18 But I don't think we can try that issue in two  
19 different courts at the same time.

20 **THE COURT:** Well, the appeal's pending in U.S.  
21 District Court in San Antonio. I don't know of anything in the  
22 Fifth Circuit.

23 **MR. GERMANY:** Well, I think that's right. It hasn't  
24 made its way to the Fifth Circuit yet. But I think the  
25 appellate briefing says the constructive trust is erroneous and



1 that title is not granted.

2 **MR. KRIST:** Your Honor, if I may.

3 **THE COURT:** Yeah, go ahead.

4 **MR. KRIST:** So I'll start with the last point raised  
5 by I think that was Mr. Muller. You know, he just suggested  
6 that the appeal concerns this constructive trust issue and  
7 that, therefore, this Court doesn't have jurisdiction. I don't  
8 believe that's accurate, Your Honor.

9 The -- number one, this Court has jurisdiction to  
10 enforce its final judgment, notwithstanding the appeal. And  
11 we've cited to ample law on that in our brief and previously in  
12 our argument.

13 The issue with the appeal is, candidly, we believe  
14 that the constructive trust shouldn't have even provided  
15 Mr. Wright with an option to transfer the right-of-way back to  
16 Krisjenn because we believe the constructive trust should apply  
17 regardless of whether he transferred it back to Krisjenn  
18 because he cannot profit from his fiduciary breaches.

19 At this point that's really beside the point because  
20 there's no dispute that Mr. Wright failed to transfer it back.

21 And on top of that, the Court's final judgment did  
22 award the constructive trust on the right-of-way in the hands  
23 of Express H2O.

24 There's no dispute that the right-of-way still  
25 remains in the hands of Express H2O. And there's nothing

1   barring this Court from enforcing the constructive trust.

2               Number two, I believe it was suggested that the  
3   constructive trust is just for proceeds of any sale to be  
4   distributed. And, Your Honor, the Defendants haven't put  
5   forward any law to that effect.

6               The law in Texas is to the contrary very clear that a  
7   constructive trust is an equitable device that requires  
8   transfer of title. That's what it is. And they can't claim  
9   it's something else in contravention of this Court's order, and  
10   try and insert additional terms that just aren't there.

11              But the Court did order a constructive trust. And  
12   under Texas law, that does require a transfer of title.

13              Number three, Your Honor, I believe Mr. Muller  
14   suggested that Mr. Wright has complied with this Court's order.  
15   I'm not aware of any way in which Mr. Wright has complied with  
16   this Court's order.

17              Defendants have done nothing to satisfy the judgment  
18   on attorneys' fees for \$750,000.

19              We believe that Mr. Wright is evading service of the  
20   writ of execution that we've been attempting to serve on that  
21   point.

22              And then on top of that, as Your Honor already knows,  
23   he's made no attempt to transfer the right-of-way back to  
24   Krisjenn. He didn't timely do so. And the right-of-way still  
25   remains in the hands of Express H2O.

1           Fourth, Your Honor, it was suggested a minute ago  
2 that there's no evidence that Krisjenn wrongfully foreclosed  
3 and that the foreclosure related to -- just to the Bigfoot  
4 note. That's simply not true, Your Honor.

5           The way that Mr. Wright got control of the right-of-  
6 way in the first place is he entered a conflicted loan  
7 transaction with Krisjenn, his own entity, without disclosing  
8 it.

9           And this Court found that that unauthorized loan  
10 transaction allowed Mr. Wright to obtain control of the right-  
11 of-way by foreclosing on it. And that leads us to where we are  
12 today. There's -- there is simply no basis for saying that  
13 there's no evidence of wrongful foreclosure.

14           And I believe that that's a misstatement of the facts  
15 of the case and this Court's findings where the Court did  
16 explicitly find that there were breaches of fiduciary duty and  
17 that Mr. Wright had entered this conflicted loan transaction in  
18 breach of those fiduciary duties.

19           Finally, Your Honor, we're not trying to alter the  
20 final judgment or add additional terms.

21           We're just asking the Court to enforce the  
22 constructive trust that it has already awarded because under  
23 Texas law, constructive trust means one thing. It means an  
24 equitable duty to convey title. And that's what we're asking  
25 for here.

1           Mr. Wright could have complied with the Court's order  
2 by transferring title, or he could have complied, as the Court  
3 allowed, by transferring it to Krisjenn. He did neither.

4           And as a result, this Court's final judgment requires  
5 transfer of the right-of-way pursuant to that equitable duty  
6 under the constructive trust.

7           I have one final point to rise, Your Honor. It was  
8 also suggested that my clients don't want to own the right-of-  
9 way and that imposition of a constructive trust would cost  
10 millions of dollars in damages. That's -- none of those things  
11 are true.

12           My clients are seeking title to the right-of-way  
13 pursuant to the constructive trust. That's why we're here  
14 today. The whole reason for this case is because Mr. Wright  
15 engaged in breaches of fiduciary duty to gain sole control of  
16 the right-of-way from my clients.

17           And there is no evidence or basis for saying that  
18 imposition of a constructive trust would cost millions of  
19 dollars in damages. To the contrary, it would put the right-  
20 of-way in the hands of the people to whom it rightfully  
21 belongs, in light of Mr. Wright's fiduciary breaches.

22           And it would actually increase the ability of the  
23 parties to actually monetize this thing, and for Mr. Wright to  
24 get his money back on his first monies obligation.

25           **THE COURT:** Okay (inaudible) --

1           **MR. KRIST:** And so --

2           **THE COURT:** I was just looking at the docket sheet  
3 for the appeal in U.S. District Court. And I see that Krisjenn  
4 has filed their appellees brief. So are they still a active --  
5 an active corporation or LLC?

6           **MR. GERMANY:** It's an appellant to the briefing. I  
7 don't know if they're still active or not. I think that that  
8 name has already been lost and has been taken by someone else.  
9 That's my understanding.

10          **THE COURT:** I mean, seriously, somebody else took the  
11 name Krisjenn and so you couldn't get it.

12          **MR. GERMANY:** I don't know, Your Honor. You know,  
13 after I spoke to you, I said, put it back. He wanted to. He  
14 spoke with the lawyers who transferred it. And they were  
15 unable to accomplish that, and that's why we returned to you.

16               There was a motion for sanctions before trial. I --  
17 you know, I objected to it being tried as -- at the same time  
18 as the remand on trial, but nevertheless reported to you and  
19 reported to -- or reported to the Court -- because I had  
20 previously told you we would transfer it back.

21               And that was absolutely my, you know, legal advice  
22 and my intent. But he was unable to do so.

23               And for whatever reason, the corporate attorneys who  
24 handled that could not put the -- reform the Krisjenn entity.  
25 And so it stayed in the hands of this new entity.

1 But as I stated at trial and will reaffirm now, I  
2 have -- my client assures me that it will -- that he will  
3 comply with the Court's order and follow the constructive  
4 trust.

5 I don't think this idea that Mr. Wright got control  
6 of the row by breaching a fiduciary true is not truthful.

7 He got sole control when they said, we don't want  
8 control, we want net profits interest only, we want (inaudible)  
9 and interest, and we don't want to share in the downside, so if  
10 you lose then million, we don't want to pay five.

11 We only want upside on a silent net profits interest.  
12 And so by contract they didn't want to have ownership and  
13 control. The fiduciary issues have nothing to do with that.

14 But, yes, Your Honor, I think you make a good point.  
15 I think the appellate is in the name of Krisjenn. My  
16 understanding is that he could not reform it to take title and  
17 possession to the row.

18 And if you need further evidence and affirmation of  
19 that, I will gladly present it and provide it to the Court.

20 **THE COURT:** Okay. So, Mr. Krist, what about the  
21 argument that the lawsuit, if there's a transfer of the right-  
22 of-way back to either Krisjenn or let's say DMA, that the  
23 lawsuit would end up being dismissed and limitations would bar  
24 relief in that instance; do you know anything about that?

25 **MR. KRIST:** Your Honor, I would be speaking to some

1 degree out of turn. But I believe that --

2 **THE COURT:** Yeah.

3 **MR. KRIST:** -- to the extent the right-of-way is  
4 transferred back pursuant to the constructive trust, my clients  
5 would have standing to intervene in that lawsuit and they would  
6 be able to steward it on that basis.

7 I don't believe that, and I'm not aware of, a statute  
8 of limitations argument that would result in millions of  
9 dollars in damages. And at the end of --

10 **THE COURT:** So basically try to slip into the shoes  
11 of Krisjenn or Express H2O as plaintiff.

12 **MR. KRIST:** That's correct, Your Honor. We would  
13 seek to substitute as the proper party that actually owns the  
14 right-of-way. And I believe that would be sufficient to get  
15 around any statute of limitations arguments, to the extent  
16 there are any. And I don't know that there are.

17 **THE COURT:** Okay. So -- and I realize you said  
18 you're withdrawing the request to have substituted service.  
19 But, I mean, shouldn't that be fairly noncontroversial?

20 I mean, if somebody's evading service, you can tack  
21 it onto their front door under State rules. And, you know, we  
22 can sort of adopt State rules. I mean, does he still live --

23 **MR. KRIST:** Well, --

24 **THE COURT:** -- in the same place or do you know, out  
25 at McQueeney?

1           **MR. KRIST:** Your Honor, to the best of my knowledge  
2 Mr. Wright and/or Krisjenn have two houses around the corner  
3 from each other still out there.

4           **THE COURT:** At Lake McQueeney?

5           **MR. KRIST:** I believe so, yes, Your Honor. And one  
6 of those addresses is actually -- the 410 Spyglass address is  
7 actually registered street address with the Texas Secretary of  
8 State for Express H2O.

9           **THE COURT:** Okay.

10          **MR. KRIST:** And so -- and as far --

11          **THE COURT:** Well let me ask --

12          **MR. KRIST:** -- as we can tell from the --

13          **THE COURT:** -- Mr. Germany. Mr. Germany, I mean,  
14 isn't substituted service contemplated when you can't find  
15 somebody to serve?

16          **MR. GERMANY:** I'll answer, Your Honor, only because I  
17 had this pending -- same issue pending before you in the State  
18 (phonetic) versus Amarillo National Corp. case which is -- has  
19 -- it's with an action on debt.

20               Yes, there is a Rule 106 under State law. But he  
21 could easily come back and ask for substitute service. Those  
22 rules and proceedings relate to service of process, not service  
23 of a writ of execution; a writ of execution of course being an  
24 order from the Court to the Marshals service to go seize upon  
25 assets.



1           The way that is accomplished and served is that the  
2 DMA and Longbranch would file an application with your Court.  
3 I believe Your Honor's clerk would then send notice to the  
4 Marshal's service, and then the Marshal's service would then  
5 execute on the writ of execution.

6           In other words, you don't serve a writ of execution  
7 on Larry, you serve it on the Marshal.

8           And so I really -- again, this is part of the amended  
9 briefing that was filed late last night. But I don't  
10 understand -- first of all, I don't understand there's no --  
11 why there's a need for substitute (inaudible).

12           But, also, why are they trying to execute on Larry  
13 Wright? They did not take a monetary judgment against Larry  
14 Wright. The only relief as stated at the beginning of this  
15 case against Larry Wright individually was a constructive trust  
16 on the row in his hands as by and through H2O.

17           **MR. KRIST:** Your Honor, just briefly, that's not  
18 correct.

19           The Court awarded attorneys' fees to DMA, Mr. Moore,  
20 and Longbranch, and then subsequently entered an order  
21 determining those attorneys' fees and awarding them  
22 specifically against Mr. Wright in connection with his breaches  
23 of contract, the declaratory claims, and --

24           **THE COURT:** Yeah.

25           **MR. KRIST:** -- the breach of fiduciary duty claims

1 which were premised on the contract.

2 **THE COURT:** Yeah.

3 **MR. KRIST:** Number two, Your Honor, the reason that  
4 we amended our motion to add these service issues is because we  
5 did think that it was fairly uncontroversial. You're correct  
6 that this Court has latitude to authorize --

7 **THE COURT:** Well, --

8 **MR. KRIST:** -- substitute service under Texas law.

9 **THE COURT:** -- yeah. And so I'm not going to rule on  
10 the substituted service today. But let me just tell a little  
11 story.

12 Back when I had the El Paso docket in the late  
13 eighties, one of the bankruptcy attorneys had a judgment  
14 against a guy that lived in a gated subdivision in El Paso  
15 area.

16 And they sent out the Marshals to serve a writ of  
17 execution on a judgment. And the people at the gate would say,  
18 oh, no, well he's not there, and so they were basically  
19 rebuffed.

20 And so they went back out in response to another  
21 order and actually went to the house, and the man's wife  
22 answered the door. And they said, you mind if we search the  
23 house. And she said, no.

24 Well, they found him in a closet and so they arrested  
25 him. And it was late on a Friday so he got to spend the

1 weekend in jail until Monday morning when his lawyer could ask  
2 for basically a writ of habeas corpus to get him out.

3 So the only reason I'm telling you that is we're not  
4 going to tolerate people playing games. So if the writ of  
5 execution needs to be served, it will be served. And we'll do  
6 whatever it takes.

7 And if it takes taking Mr. Wright in by force and in  
8 chains, we can do that. And, you know, we're happy to do that  
9 if he needs a ride down to the courthouse.

10 And we'll have a hearing. We'll give him a hearing  
11 on it. But we're not going to have people playing games with  
12 us on serving writs of execution, okay?

13 And I don't know if he has any assets or not. He may  
14 not. He may be judgment-proof, and if he is, he is. But we're  
15 not going to have people evading service of process when  
16 they -- we know where they live and they're just playing games  
17 with us.

18 So if he wants to spend a little time in the pokey,  
19 you know, so be it. So that's just --

20 **MR. SPEAKER:** (Inaudible)

21 **THE COURT:** -- a warning for the future.

22 **MR. SPEAKER:** Yes. And, Your Honor, I will admonish  
23 my client on that. But he is not playing games. The -- he has  
24 moved into a new home. And, you know, they haven't even  
25 reached out to us and asked us for that new --

1           **THE COURT:** On Spyglass?

2           **MR. GERMANY:** -- address. But it's public record.

3           **THE COURT:** On Spyglass or somewhere else?

4           **MR. SPEAKER:** No.

5           **MR. SPEAKER:** To be --

6           **MR. SPEAKER:** It's a different home, Your Honor.

7           **MR. SPEAKER:** To be clear, as a product of this  
8 lawsuit, he's lost everything. And so I think the  
9 representation that he has two homes on McQueeney is false. He  
10 had --

11           **THE COURT:** Well, you know, I don't know.

12           **MR. SPEAKER:** -- to sell his (inaudible) --

13           **THE COURT:** I just remember his address being on --

14           **MR. SPEAKER:** Yeah.

15           **THE COURT:** -- Spyglass, and that's at Lake Queeney.

16           **MR. SPEAKER:** (Inaudible)

17           **THE COURT:** That's all I know.

18           **MR. SPEAKER:** Yeah. He had to sell his home --

19           **THE COURT:** That's all I know.

20           **MR. SPEAKER:** -- and he had to sell his ranch. He  
21 sold everything and now he lives in a smaller house in the same  
22 neighborhood.

23           **THE COURT:** Okay.

24           **MR. SPEAKER:** And, Your Honor, --

25           **THE COURT:** (Inaudible) is a homestead and it's

1 exempt, etcetera. I understand.

2 **MR. GERMANY:** And, Your Honor, one other aspect about  
3 the final judgment I think that's being misrepresented to the  
4 Court, the final judgment in paragraph four is the only one  
5 that awards attorneys' fees, other than the ones that were in  
6 correspondence with the note for (inaudible) --

7 **THE COURT:** Well there's a supplemental order on  
8 attorneys' fees.

9 **MR. KRIST:** That's correct, Your Honor.

10 **MR. GERMANY:** (Inaudible) supplemental order, Your  
11 Honor, under 7054, which is, you know, a non-jurisdictional  
12 aspect of it. And they raised that issue for the first time on  
13 the Monday briefing or amended motion.

14 And, Your Honor, in that one they don't conform with  
15 what the final judgment says and just the order on attorneys'  
16 fees because the order is quite clear, Your Honor.

17 And we're going to file a motion with the Court to  
18 correct this, but it's under -- paragraph four is the only new  
19 attorneys' fees awarded, and that's for Krisjenn on the dec.  
20 action. That's it.

21 So it's the declaratory judgment action. And they  
22 are -- the Court awards attorneys' fees to DMA against  
23 Krisjenn.

24 **MR. KRIST:** Your Honor, --

25 **MR. SPEAKER:** (Inaudible)

1           **THE COURT:** (Inaudible) it says against Wright. On  
2 the third paragraph on page two of that order, that order is  
3 document number 353 in this adversary proceeding.

4           And if you look at the second full paragraph, it says  
5 \$750,000 against Wright, Krisjenn Ranch, LLC, and the other two  
6 Krisjenn entities.

7           **MR. KRIST:** That's correct, Your Honor.

8           **THE COURT:** So take a look at that after we get off.  
9 You know, take a look at that. The -- so we're not going to  
10 decide that today because it hasn't been raised enough in  
11 advance.

12           But, okay, so what else? Anything else, Mr. Krist?

13           **MR. KRIST:** Your Honor, you have further questions  
14 about the constructive trust arguments, I don't believe so.

15           **THE COURT:** Okay. Mr. Germany or Mr. Muller.

16           **MR. GERMANY:** Nothing further, Your Honor.

17           **THE COURT:** Okay.

18           **MR. MULLER:** Not from me, Your Honor.

19           **THE COURT:** All right. I think we need the property  
20 transferred to DMA. So there is a constructive trust on it.

21           I'm not sure that Mr. Wright is doing everything  
22 that's in the best interests of DMA, Moore, Longbranch, and  
23 Borders because DMA owns a 20 percent profits interest that the  
24 district court has told us runs with the land.

25           I'm not sure that Mr. Wright is protecting that. He

1 might be. But he's been ordered to transfer the property back  
2 to Krisjenn.

3 And we've heard this morning from the attorneys that  
4 they were unable to do that for whatever reason. I find it a  
5 little hard to believe that somebody else came in and grabbed  
6 the Krisjenn Ranch, LLC name and that it's not available. But,  
7 I mean, that could be true.

8 But in any event, it needs to come to DMA. So I'm  
9 going to direct Mr. Wright, Express H2O, Krisjenn Ranch, LLC,  
10 all the entities to take steps to transfer the right-of-way to  
11 DMA.

12 And then DMA takes it subject to the obligation to  
13 pay Mr. Wright the first \$4.7 million in the event of sale or  
14 other monetization.

15 And after that obviously the 20 percent of DMA and  
16 Longbranch or Mr. Borders, whichever is appropriate, will  
17 continue as a charge against the land, a covenant running with  
18 the land.

19 So, Mr. Krist, will you prepare an order to that  
20 effect?

21 **MR. KRIST:** Yes, we will, Your Honor.

22 **THE COURT:** Okay. And let Mr. Germany and Mr. Muller  
23 see it before you submit it. And if there's any disagreement  
24 about the form of the order, they can email Deanna Castleberry.

25 And, you know, if you want to prepare your own form,

1 you can send it to Ms. Castleberry and I'll look at all of  
2 them. But I hope that it won't be controversial, the form of  
3 the order. Okay. So --

4 **MR. KRIST:** Understood, Your Honor.

5 **THE COURT:** -- order to come from Mr. Krist. The  
6 motion's granted.

7 **MR. SPEAKER:** Thank you, Your Honor.

8 **MR. KRIST:** Thank you, Your Honor.

9 **MR. GERMANY:** Thank you, Your Honor.

10 **THE COURT:** All right, gentlemen, --

11 **MR. GERMANY:** Are we excused?

12 **THE COURT:** Yes, sir. Feel free to drop off. We'll  
13 be in recess.

14 **(This proceeding was adjourned at 10:53 a.m.)**

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**CERTIFICATION**

I certify that the foregoing is a correct transcript from the electronic sound recording of the proceedings in the above-entitled matter.



**February 7, 2025**

Signed

Dated

**TONI HUDSON, TRANSCRIBER**